

**NORTH READING BERRY CENTER RESIDENTIAL 40R OVERLAY DISTRICT:**

*Note: This zoning text and map amendment will establish a new 40R Smart Growth Overlay District in the Town of North Reading Zoning Bylaw. In addition to establishing this district in Section 200-29, Town Meeting must also adopt an additional amendment to add this new district with the name shown below. This Bylaw also harmonizes a number of General Bylaws of the Town of North Reading with the purpose, intent and requirements of this Bylaw, causing such other Bylaws not to apply to any project which chooses to be governed by the provisions of the Berry Center Residential Smart Growth Overlay Zoning Article. This is necessary for the Berry Center Smart Growth District to have the certainty of harmonized local rules required for Commonwealth approval.*

**ARTICLE XX        BERRY CENTER RESIDENTIAL SMART GROWTH  
OVERLAY DISTRICT (SGA)**

**XX.1        Purpose**

It is the purpose of this Section to establish a Berry Center Residential Smart Growth Overlay District and to encourage smart growth pursuant to and in accordance with the purposes of G. L. Chapter 40R and the regulations promulgated thereunder at 760 CMR 59.00 et seq., and to foster a broader range of housing opportunities within the Town of North Reading, and, when coupled with the existing Industrial / Office zoning for the Berry Center area, to foster mixed use development, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to nearby recreational land, and to adjacent land already zoned for future employment for industrial and commercial purposes and a full-service family restaurant. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities in the Town of North Reading by adding to the currently underprovided multi-family housing stock of the Town;
2. Provide for a full range of housing choices in the Town of North Reading, consistent with market demands, for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;

3. Increase the production of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and Town-wide diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, prompt, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning, and also provide for consistency in site planning;
7. Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with G. L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Berry Center Residential Smart Growth Overlay District; and
8. Enable the Town to receive Smart Growth Educational Aid payments for school children living in residential developments at the Berry Center Residential Smart Growth Overlay District pursuant to G.L. Chapter 40S, which are available only for new developments in 40R Smart Growth Zoning Overlay Districts.

## **XX.2    Definitions**

For purposes of this Article XX, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section XX.2. To the extent that there is any conflict between the definitions set forth in this Section XX.2 and the Enabling Laws, the terms of the Enabling Laws shall govern. For the purpose of this Article XX, certain words or phrases shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural, words used in the present tense include the future tense, the word “person” includes corporations, limited partnerships, limited liability companies and other legal entities, as well as an individual, the word “lot” includes the word “plot” or “parcel,” the words “used” or “occupied” include the words “designed, arranged, intended or offered to be used or occupied,” the words “building,” “structure,” “lot,” “land,” or “premises” shall be construed as though followed by the words “or any portion thereof,” and the word “shall” is always mandatory and not merely directory.

Terms and words not defined in this Article, but defined in the Massachusetts State Building Code as amended, shall have the meanings given therein, unless a contrary intention clearly appears from the context. Words not defined in the State Building Code, the Enabling Laws or this Article shall have the meaning given in Webster’s Unabridged Dictionary, 3<sup>rd</sup> Edition.

***Abandonment*** – The purposeful discontinuation of a use of a building or lot for two (2) years or more; or the removal of the characteristic equipment or furnishings used in the performance of a nonconforming use, without its replacement by similar equipment or furnishings within two (2) years thereafter.

***Accessory Building*** – A detached building, the use of which is customarily subordinate and incidental to that of the principal building or buildings, whether or not located on the same lot.

***Accessory Use*** – A use of a lot customarily subordinate and incidental to the principal use of the lot, or a neighboring lot in the case of a use pursuant to an easement, or to a structure on the lot, or on a neighboring lot in the case of a structure erected and maintained pursuant to an easement.

***Affordable Homeownership Unit*** - an Affordable Housing unit required to be sold to an Eligible Household.

***Affordable Housing*** - housing that is affordable to and occupied by Eligible Households.

***Affordable Housing Restriction*** - a deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, Section 31 and the requirements of Section XX.7.5 of this Bylaw.

***Affordable Rental Unit*** - an Affordable Housing unit required to be rented to an Eligible Household.

***Applicant*** – A person which files an application for Plan Approval pursuant to this Article XX. If the Applicant is not the owner of the lot in question, then the Applicant, as part of the application or notice shall obtain the owner's written authorization to file such application or notice. Such written authorization may take the form of pre-existing agreements or instruments including, without limitation, signed purchase and sale agreement(s) and signed easement(s) (whether or not yet recorded).

***As-of-right Project or Project*** - means a project proposed or developed for Multifamily Residential Use and one or more related amenities and accessory uses, structures and buildings commonly associated with a multi-family residential development including without limitation, associated clubhouse(s), private recreational facilities (e.g. swimming pools, tennis courts, lawns, open areas, walking paths and other active and passive recreational areas), private sewage treatment facilities and associated treated effluent disposal facilities including without limitation all associated buildings, piping, structures and disposal fields, landscaping, concierge facilities, driveways and drive lanes, surface parking, parking garages, garages under one or more buildings, and/or structured parking garages; all of which shall be permitted by this Article without recourse to or requirement for any special permit, variance, zoning amendment, or other form of zoning

relief. A development or project that requires Plan Approval pursuant to this Article XX shall be considered an As-of-right Project.

**Base Income** – See definition embedded in the definition of Eligible Household.

**Building** – A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, processes or property. For the purpose of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature. The word “building” shall be construed, where the context requires, as though followed by the words “or part of parts thereof.”

**Building Area** –The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconied and terraces.

**Building Inspector** – The duly appointed officials of the Town of North Reading charged, among other things, with enforcement of the Zoning Bylaw including, without limitation, this Article.

**Building Permit** – A permit issued by the Building Inspector for the construction, reconstruction, alteration or change of a structure as required by the Massachusetts State Building Code.

**CPI** – The consumer price index for all urban workers, all items (1982-1984=100) as published by the US Department of Labor from time to time or any equivalent successor index.

**DEP** -- The Department of Environmental Protection of the Commonwealth of Massachusetts, and any successor agency.

**DHCD** -- The Department of Housing and Community Development of the Commonwealth of Massachusetts, and any successor agency.

**Detached Building** – A building having open areas on all sides.

**Driveway or Drive Lane** – A portion of a lot designed for vehicular access to off-street parking or loading space or to a garage, whether or not located on the same lot.

**Dwelling Unit** – One (1) or more living, kitchen and sleeping room(s) providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation, but not including mobile homes or trailers, however mounted, or commercial accommodations offered for transient occupancy of less than one month’s duration.

**Eligible Household** - an individual or household whose annual income is no more than eighty percent (80%) of the area-wide median household income for the Boston Primary

Metropolitan Statistical Area, as published from time to time by the United States Department of Housing and Urban Development (HUD), or successor agency, adjusted for household size ("Base Income"). Eligible Household assets shall be consistent with the standards for inclusion on the Subsidized Housing Inventory maintained by DHCD.

***Enabling Laws*** - G.L. Chapter 40R and 760 CMR 59.00.

***Erect*** – To construct or reconstruct or excavate, fill, drain or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot. The word "erect" shall include "building," "constructing," "reconstructing," "altering," "enlarging" and "moving."

***Family*** – An individual, or two (2) or more persons living together as a single housekeeping unit.

***Grade, Finished*** – The average elevation of the ground at the conclusion of construction.

***Landscaped Buffer*** – A planted area intended to provide, when mature, a visual screen between uses. Landscaped buffers may include existing vegetation, new plantings and/or lawn areas. Fencing may form a part of the landscaped buffer or screening where appropriate or dictated by topography or other consideration.

***Landscaping*** – Improvements to land to enhance its attractiveness and facilitate its use and enjoyment. Landscaping may include walks, terraces and the like, fencing, stone walls or other decorative walls, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Landscaping may also include existing natural areas indicated to remain and/or be renovated.

***Lot*** -- A parcel of land used or available for use as the site of one (1) or more Principal Buildings and Accessory Buildings, as shown or defined on a recorded instrument or as otherwise defined by metes and bounds. A lot for the purpose of this Article may or may not coincide with a lot of record title.

***Multi-family Residential Subdistrict*** – See Section XX.3.1, below.

***Multi-family Residential Use*** – Apartment or condominium dwelling units in one or more buildings, each of which buildings contains or will contain more than three (3) such units.

***PAA*** – See Plan Approval Authority.

***Parking Space*** – An off-street space for use as a parking stall for one (1) motor vehicle, meeting the applicable requirements of this Article, whether inside or outside a garage or structure.

***Plan Approval***- The site plan review approval issued by the PAA for a Project pursuant to an application submitted by an Applicant, under the standards and procedures set forth in this Article.

***Plan Approval Authority*** - For purposes of reviewing Project applications and issuing Plan Approval and other decisions on development Projects within the SGA, the Zoning Board of Appeals, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and is authorized to issue Plan Approvals to implement a Project.

***Principal Building*** – Any detached building in which is conducted the principal use of the lot on which it is located. Garages, parking structures, mail box kiosks, and the like shall not be treated as Principal Buildings, but rather as Accessory Buildings.

***Principal Use*** – The main or primary purpose for which a structure or lot is designed, arranged or intended or which it may be used, occupied or maintained under this Article.

***Project*** – See As-of-right Project.

***SGA*** – The smart growth area, also known as the Berry Center Residential Smart Growth Overlay District, established and located by this Article, including all subdistricts established within such Overlay District by this Article.

***SGA-Main Drive Subdistrict*** – See Section XX.3.1, below.

***SGA-Disposal Field Subdistrict*** – See Section XX.3.1, below.

***SGA-Emergency and Town Access Drive Subdistrict*** – See Section XX.3.1, below.

***SGA Future Open Space*** – If and to the extent voluntarily offered by an Applicant, a future area, permanently restricted by a restriction recorded at the registry of deeds running in favor of the Town of North Reading acting by and through its Board of Selectmen, up to 1.4 acres in size for all such areas in the aggregate and located entirely within the Multi-family Residential Subdistrict, which may not be used in any part for any Building or any Parking Space, but which may be used, in the Applicant’s discretion from time to time, for detention and retention basins, drainage pipes and structures, other utilities, landscaping, walks, benches, signage and the like. Any such SGA Future Open Space shall be shown on a plan recorded at the registry of deeds with such restriction and, notwithstanding any other provision of this Bylaw to the contrary, the area thereof shall be deducted from the area of the Multi-Family Residential Subdistrict in determining the maximum allowable number of Dwelling Units in the SGA.

***SGA Zoning Map*** – The zoning map for the SGA, more particularly described in Section XX.3.1, below.

**Structure** – A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, shelters, piers, bin, fence, sign, swimming pool or the like.

**Underlying Zoning** – The zoning otherwise established by the Zoning Bylaw for the SGA without regard to this Article.

**Use** – The purpose for which a structure or land is used or intended to be used.

**Use, Substantially Different** – A use which by reason of its normal operation would cause readily observable, material differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

**Zoning Bylaw** - The Zoning Bylaw of the Town of North Reading.

### **XX.3 Overlay District**

**XX.3.1 Establishment.** The Berry Center Residential Smart Growth Overlay District, herein referred to as the SGA, is an overlay district having a land area of approximately forty-six (46) acres in size that is superimposed over all underlying zoning districts, including without limitation all other overlay districts, established by the Zoning Bylaw now or hereafter applicable to that certain portion of the property known as the J.T. Berry Center, and is shown on the Zoning Map as set forth on the map entitled “Berry Center Residential Smart Growth Overlay District”, dated March 13, 2006, prepared by Symmes Maini & McKee Associates.” This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk (the “SGA Zoning Map”). The SGA contains approximately fourteen and one-half (14.5) acres of land which are Environmentally Constrained Land, being land within wetlands, within the 12-foot wetlands no-disturb buffer established by this Article, and/or within so-called Zone A floodplains (also known as 100-year floodplains), and other Non Developable Land, being land the use of which is or will be limited to a principal driveway or drive lane (approximately one and two-tenths (1.2) acre), or limited to use as private sewage treatment disposal field areas (approximately seven and nine-tenths (7.9) acres), or limited to emergency, town access and secondary access drives and areas (approximately seven tenths of one (0.7) acre. The SGA thus contains approximately twenty-one and seven tenths (21.7) acres of Developable Land, subject to reduction by up to 1.4 acres of SGA Future Open Space.

The SGA contains four (4) subdistricts, all hereby established and all in the locations shown on the SGA Zoning Map: (a) the SGA-Main Drive Subdistrict (aka Main Shared Drive Lane), containing approximately one and two tenths of one (1.2) acres; (b) the SGA-Disposal Field Subdistrict (aka Residential Disposal Field and Commercial Parking Subdistrict), containing approximately seven and nine-tenths (7.9) acres; (c) the Multi-family Residential Subdistrict, containing approximately twenty-one and seven tenths (21.7) acres; and (d) the SGA-Emergency and Town Access Drive Subdistrict, containing approximately seven tenths of one (0.7) acre.

The SGA will contain all or portions of two or more separate legal lots.

#### **XX. 4 Relationship to Underlying Zoning and Other Permitting Requirements**

**XX.4.1 Relationship to Underlying Zoning.** The SGA is an overlay district superimposed on all underlying zoning districts, including without limitation all other overlay districts, now or hereafter established by the Zoning Bylaw. The use, dimensional, parking and other regulations governing the underlying zoning district(s) shall remain in full force, and are not amended or modified by this Article. A development or project shall comply either (a) completely with underlying zoning, or (b) completely with the overlay zoning for the SGA created by this Article and the Enabling Laws, but shall not be required to comply with both. In order to provide for the harmonious development and use of land within the SGA and abutting land not located within the SGA, the use of the SGA-Main Drive Subdistrict, the SGA-Emergency and Town Access Drive Subdistrict and the SGA-Disposal Field Subdistrict (which are anticipated to be used in whole or in part both by Projects proceeding under this Article, and developments proceeding under Underlying Zoning), are restricted to particular uses by any Project electing to proceed under this Article.

#### **XX.4.2 Applicability.**

In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the SGA may, as a complete alternative to complying with underlying zoning and/or seeking relief from underlying zoning, elect to proceed in compliance with this Article by applying for or giving notice for Plan Approval in accordance with the requirements of this Article XX. In such case, then notwithstanding anything to the contrary in this Zoning Bylaw, such application and Project shall not be subject to any other provisions of this Zoning Bylaw, but shall be governed exclusively by this Article, the Enabling Laws and any Plan Approvals issued hereunder.

#### **XX.4.3 Explicit Harmonizing with this Article of All Other Bylaws That Would Otherwise Be Applicable to Development of an As-of-right Project in the SGA.**

A Project electing to be governed by this Article and the Enabling Laws shall not be required to seek, obtain or comply with any other permitting, review, approval, site plan approval, determination of applicability, order of conditions, or other, equivalent requirements or process pursuant to any other bylaw of the Town of North Reading, other than Plan Approval and one or more building permits and certificates of occupancy, with respect to any development occurring within the SGA. Such other bylaw requirements which shall not be applicable to such a Project shall include, without limitation, any local wetlands bylaw, any local septic bylaw, any local earth moving bylaw, and any local rule, regulation, policy or guideline promulgated in connection therewith. The development of such a Project shall be governed exclusively by applicable State law and the provisions of this Article, the Enabling Laws and any Plan Approval. To the extent such a body, board, agency, commission or other authority of the Town of North Reading is the applicable



regulatory authority for implementing State law, such body, board, agency, commission or other authority shall continue to have the authority conferred on it by State law, but it is the intent and goal of this Article that such body, board, agency, commission or other authority should grant waivers or other relief to the maximum extent possible to further the development of such Projects in the SGA consistent with the requirements of State law.

## **XX.5 Permitted Uses**

Subject to restriction in certain Subdistricts as provided in the next two paragraphs, the following uses are permitted as of right in the SGA for each Project electing to be governed by this Article and the Enabling Laws: all uses included in the definition of an As-of-right Project. Uses not specifically permitted in this SGA by this Article are prohibited for Projects electing to be governed by this Article.

Uses in the SGA-Main Drive Subdistrict shall be limited to driveways and drive lanes providing a principal means of access to any Project governed by this Article, as well as to any other development or project, on the same or other land, governed by Underlying Zoning, and utilities, signage and landscaping.

Uses in the SGA-Disposal Field Subdistrict shall be limited to disposal fields for treated wastewater effluent from the private sewage treatment facility serving any Project(s) which elect to be governed by this Article, and utilities, signage and landscaping, provided that this limitation shall not preclude simultaneous use of such Subdistrict for surface parking by other developments or projects governed by Underlying Zoning.

Uses in the SGA-Emergency and Town Access Drive Subdistrict shall be limited to driveways and drive lanes providing emergency and other secondary access to any Project governed by this Article, as well as to any other development or project, on the same or other land, governed by Underlying Zoning, and to use as a school bus drop off and pick up area, and landscaping and facilities related to any of the foregoing, and utilities and signage.

## **XX.6 Project Phasing**

A Project Applicant may request a Project to be phased. For Projects that are approved and developed in phases, subject to reasonable rounding, the proportion of Affordable units and the proportion of market rate units shall be consistent across all phases. In no event shall any Project contain less than twenty dwelling units or otherwise be segmented to avoid the affordability requirements of this Article.

## **XX.7 Housing and Housing Affordability**

**XX.7.1 Marketing Plan.** Prior to granting Plan Approval within the SGA, an Applicant for such approval shall submit a narrative marketing plan that establishes that the proposed development of housing is appropriate for diverse

populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with a Plan Approval application, shall include details about the number and features of units that will be designed to be accessible to the disabled. There shall be provision for affirmative fair marketing. Notwithstanding the foregoing, no Project shall ever be required to have a component which is not multi-family residential in nature or to provide both rental and homeownership opportunities.

**XX.7.2 Number of Affordable Housing Units.** For all Projects, twenty percent (20%) of dwelling units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. Twenty-five percent (25%) of rental dwelling units constructed in a rental Project must be Affordable Rental Units.

**XX.7.3 Requirements.** Affordable Housing shall comply with the following requirements:

1. For any Affordable Rental Unit, the monthly rent payment, including any applicable utility allowances shall not exceed 30 percent of the maximum gross monthly income permissible for an Eligible Household or, if greater for tenants who are participants under any governmental rent subsidy program in which the Project owner chooses to participate, the maximum rent permitted under such program. For so long as the Affordable Housing unit is used for rental housing during the term of the Affordable Housing Restriction called for by Section 7.5, below, the administering agency shall annually determine or review the determination of the income of each tenant of an Affordable Rental Unit. This income determination shall be reported to the municipality by the administering agency on an annual basis. Any Affordable Rental Unit occupied by a certified Eligible Household at the commencement of occupancy shall be deemed an Affordable Unit so long as (x) such unit continues to be rent restricted, (y) the household continues to occupy the unit, and (z) the household's income does not exceed 125% of the Base Income at the time of annual income determination. If the tenant's income exceeds 125% of the Base Income at the time of the annual income determination, then the Project owner or manager thereafter shall be free to charge market rent for such unit, and such unit shall still be deemed to be an Affordable Unit until the next available unit in the Project with the same or greater number of bedrooms which is not then managed as an Affordable Unit is rented, provided the Project owner and administering agency rent such next available unit to a qualified Eligible Household for the affordable rent provided herein, in order to substitute such next available unit as a replacement Affordable Rental Unit.

2. For any Affordable Homeownership Unit the initial purchase price shall be set such that the monthly housing payment, including mortgage principal and interest (based on 30-year, fixed-interest rates at the time of sale or resale), private mortgage insurance, property taxes, condominium and/or homeowner's

association fees and insurance, and assuming a down payment of five percent (5%), shall not exceed 30 percent of the maximum gross monthly income permissible for an Eligible Household with a number of members equal to the number of bedrooms in the unit multiplied by 1.5 and rounded up; and the maximum resale price shall be the greater of (x) the initial purchase price, or (y) the initial purchase price increased by the percentage increase, if any, in the Boston area-wide household median income, as such area-wide median household income is determined by HUD or its successor agency, since the time of the initial sale; and the procedures to be followed by a seller desiring to sell or resell an Affordable Homeownership Unit shall be specified in the Affordable Housing Restriction called for by Section 7.5, below. Such Restriction may permit an adjustment in selling price on account of closing costs and brokers' fees.

3. Subject to the foregoing, Affordable Housing to be offered for rent or sale shall be rented or sold to Eligible Households which must thereafter occupy the housing.

**XX.7.4 Design and Construction.** Units of Affordable Housing shall be finished, but unfurnished, housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and have exteriors that are equivalent in design and materials to the exteriors of other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be generally proportionate to the total number of bedrooms in all the units in the Project of which the Affordable Housing is part.

**XX.7.5 Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court prior to initial occupancy of the Project and which contains the following:

1. specification of the term of the affordable housing restriction which shall be no less than thirty years;
2. the name and address of the administering agency required by Section 7.6, below, with a designation of its power to monitor and enforce the affordable housing restriction;
3. a description of the Affordable Homeowner Units, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms (and number of bedroom types) of Affordable Rental Units in those portions of a Project which are rental (such Restriction applying individually to specifically identified Affordable Homeowner Units, but applying generally to a percentage of rental units of the rental portion of a Project, without specific unit identification, for so long as it remains a rental development),

4. reference to an operational housing marketing and resident selection plan (to be developed between the Project Applicant and the administering agency under Section 7.6 prior to initial occupancy of the Project, and to be consistent with those used for similar developments governed by General Laws Chapter 40B), to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the PAA in consultation with other Town boards shall determine the types of local preference consistent with fair housing requirements prior to the time the Affordable Housing Restriction is executed; individuals who have a financial interest in the Project shall not be eligible to participate in local preference Affordable Housing resident selection. The plan shall designate the household size appropriate for a unit with respect to bedroom size. The plan shall also provide that determinations of rent and sale prices shall be made with respect to a household with a number of members equal to the number of bedrooms multiplied by 1.5 and rounded up.
5. a requirement that residents will be selected at the initial sale or initial rental, and upon all subsequent sales and rentals, from a list of Eligible Households compiled by the administering agency in accordance with such housing marketing and selection plan;
6. reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set, consistent with Section 7.3, above;
7. designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
8. a requirement that, subject to Section 7.3, above, only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the administering agency;
9. provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
10. provision that the Restriction on an Affordable Homeownership Unit shall run with only such Unit, and shall run in favor of the administering agency and/or the municipality, in a form reasonably approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household, consistent with Section 7.3, above;

11. provision that the restriction on Affordable Rental Units in the rental portion of a Project shall run generally with such entire rental portion of the Project for so long as it remains a rental development during the term of the Restriction, shall run in favor of the administering agency and/or the municipality, in a form reasonably approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household, consistent with Section 7.3, above;

12. provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the administering agency, in a form specified by such administering agency, certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;

13. a requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability;

14. provision that each owner of a restricted Affordable Housing Unit shall have the right to receive notice of any and every alleged default, violation or breach of the applicable Restriction respecting such owner's unit(s), and an opportunity to cure the same for least sixty (60) days thereafter; and

15. provision that each Project mortgagee shall have right to receive such notice of alleged default, violation or breach, and the option at its sole discretion (but not the obligation) to cure any default, violation or breach of any affordability Restriction applicable to its mortgage collateral for a further period of sixty (60) days after the end of the 60-day period provided in item (15) above.

**XX.7.6 Administering Agency.** An administering agency shall be designated by the PAA. Prior to occupancy of the Project, the Project applicant shall enter into a monitoring services agreement with such administrative agency. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified state or regional non-profit housing entity designated by the the PAA or, in the absence of such timely designation, by such an entity designated by the DHCD. In any event, such agency shall ensure the following, all in accordance with this Article:

1. prices of Affordable Homeownership Units are properly computed and rental amounts of Affordable Rental Units are properly computed;
2. income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. the housing marketing and resident selection plan conforms to all requirements and is properly administered;

4. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;
5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds;

**XX.7.7 Administering Agency Fees.** The monitoring services agreement between the administering agency and the Project applicant may make provision for payment by the Project applicant of reasonable and customary costs to the administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. In the case of Affordable Rental Units, such payment shall not be required to exceed a one-time initial fee of \$7,500, plus \$200 per year per Affordable Rental Unit. In the case of Affordable Homeownership Units, such payment shall not be required to exceed one-half one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable, and, in the case of payments due upon resale, shall be due and payable only by the selling homeowner and not by the original Project applicant, or its corporate successors or assigns.

**XX.7.8 Age Restrictions.** The District shall not include the imposition of restrictions on age upon the entire District, but an Applicant may voluntarily determine, the development of a Project within the SGA may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and that twenty-five percent (-25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units. Any Project which includes age-restricted dwelling units shall comply with applicable federal and state fair housing laws and regulations.

**XX.7.9 Phasing.** For a Project that is approved and developed in phases, which an applicant may voluntarily elect to do, insofar as practicable the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as described in 760 CMR 59.04 1(h)) shall be consistent across all phases (subject to reasonable rounding).

**XX.7.10 Computation.** Prior to the granting of any certificate of occupancy (aka certificate of compliance) for the housing component of a Project, the applicant for such building permit must demonstrate, to the satisfaction of the PAA, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to North Reading.

**XX.7.11 No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section XX.7 shall not be waived.

## **XX.8 Dimensional and Density Requirements**

Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGA are as follows:

Minimum Lot Area	Five (5) acres.
Minimum Lot Frontage on a Public Way (access may, but is not required to be, over such frontage; access may, in whole or in part, be via easement)	250 feet
Maximum Building Height (measured from the average ground height adjoining at the exterior walls of a building to highest point on the roof of the building, exclusive of decorative cupolas, weather vanes, chimneys and vent structures, antennas, satellite dishes, mechanical penthouses and other structures or enclosures not intended for human habitation)	60 feet
Minimum Front Setback of any Building (measured from and perpendicular to that one public way existing as of January 1, 2006 and providing the Minimum Required Frontage for a Project; driveways, drive lanes and landscaping -- but not parking -- may be located within Minimum Front Setback areas)	40 feet

<p>Minimum Rear Yard Setback of any Building (measured from and perpendicular to that one lot line for the Project which is fundamentally opposite the one public way providing Minimum Required Frontage for the Project; accessory buildings, structures and uses, including without limitation parking and private sewage treatment facilities, may be located within Minimum Rear Yard Setback areas)</p>	<p>25 feet</p>
<p>Minimum Side Yard Setback of any Building (measured from and perpendicular to all those lot lines, or SGA district lines where different from lot lines, which are neither the one lot line providing Minimum Required Frontage or that one lot line from which Minimum Rear Yard Setback is measured; accessory buildings, structures and uses, including without limitation parking and private sewage treatment facilities, may be located within Minimum Side Yard Setback areas)</p>	<p>5 feet</p>
<p>Minimum Open Space (being the portion of a Project lot within the SGA not occupied by buildings, parking, garages, driveways and driveways, but which shall include, among other areas, all landscaped areas, all unbuilt areas, all sidewalks and walkways, and all swimming pools, tennis courts and other recreational facilities primarily open to the sky, whether or not hardscaped)</p>	<p>20%</p>



Allowable Dwelling Units/Acre in the Multi-family Residential Subdistrict (determined after deduction of the area of any SGA Future Open Space from the area of the Multi-family Residential Subdistrict)	20
Minimum Setback between Principal Buildings (measured at the closest point between any two Principal Buildings)	25 feet
Minimum Setback between either (a) Accessory Buildings, or (b) Principal Buildings and Accessory Buildings	5 feet
Minimum Dimensional Requirements / Locational Requirements for Private Wastewater Disposal Facilities (i.e. disposal fields) Serving a Project	None except as follows: May be located anywhere within the SGA Disposal Field Subdistrict, subject to compliance with applicable State law, and may also be located on permanent easement area(s) provided such permanent easement area(s) is/are located within the SGA Disposal Field Subdistrict; the use of such an easement area for such wastewater disposal facilities shall not preclude the use of the surface of such area for parking, either for the Project or for any other development or project electing to remain governed by Underlying Zoning.
Multiple Buildings on One Lot	Allowed

<p>No Improvements in Zone A Flood Areas</p>	<p>No Project improvements other than creation of ponds or stormwater detention or retention areas, and associated structures, filling for landscaping and open space areas, and other creation of compensatory flood storage, not in excess of 40,000 square feet, shall be located within any federally-designated Zone A flood area shown on the Flood Insurance Rate Map for the Town of North Reading, dated June 16, 2004 and further described in the Flood Insurance Study (FIS) for the Town of North Reading dated April 3, 1978, and revised June 16, 2004, as the location of such flood area may be altered by a Project Applicant pursuant to provisions of applicable law.</p>
<p>No Improvements in Wetlands or 12 Foot Buffer to Wetlands</p>	<p>No Project improvements shall be located in (a) any wetland resource area governed by General Laws Chapter 131, Section 40, or (b) within a buffer area, twelve (12) feet in width, on the upland side of such wetland resource areas (other than in the case of any 200-foot riverfront areas, which shall have no additional buffer).</p>
<p>Maximum impervious area within 100 feet of any wetland resource area governed by General Laws Chapter 131, Section 40 (other than any riverfront areas, which have no buffer under such law). Impervious area shall mean only areas permanently covered by buildings, concrete, asphalt pavement and the like; without limitation, lawns, other vegetated areas, mulched or graveled areas and other areas landscaped with pervious or semi-pervious surfaces, shall never be considered to be impervious.</p>	<p>25% of such area</p>

Maximum alteration of land within 100 feet of any wetland resource area governed by General Laws Chapter 131, Section 40 (other than any riverfront areas, which have no buffer under such law).	75% of such area
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#### **XX.8.1 Interpretation of Table.**

1. All dimensional requirements shall be computed on a Project by Project basis. The front setback within the SGA shall apply only to front yards abutting a public way existing on January 1, 2006; and for any other street, way, driveway or drive lane not so laid out and accepted, there shall be no front setback requirement, and thus no mirroring rear yard setback either.

#### **XX.9 Parking Requirements**

Notwithstanding anything to the contrary in this Zoning Bylaw, the parking requirements applicable to each entire Project in the SGA are as follows:

Residential Use (Minimum)	1.5 spaces per unit
Residential Use (Maximum)	2.0 spaces per unit

#### **XX.9.1 Interpretation of Table.**

In no event shall any separate parking be required for, or attributed to, clubhouses, swimming pools, tennis courts or other recreational facilities, private sewage treatment facilities, or other accessory buildings, structures or uses.

#### **XX.10 Design Standards**

##### **XX.10.1 Intent.**

In order to ensure high-quality development within the SGA and to ensure design that respects the built and natural character of North Reading, the following design standards are established. These standards are intended to be applied flexibly by the Plan Approval Authority as appropriate to the Project as part of the site plan review process to enable the purpose of this District to be realized, and in recognition of the as-of-right nature of Projects proceeding under this Article. These standards apply to all site improvements and buildings and structures to enhance the appearance of the built environment within an SGA.

### **XX.10.2 Building and Structure Placement/Appearance.**

1. Where Project buildings abut lots outside the SGA that include residential or public recreation uses per Underlying Zoning, and substantial natural vegetation does not remain, provide a landscaped buffer between Project buildings and such abutting lots.
2. Where practicable and desired by the PAA, preserve attractive views from publicly accessible major vantage points along public streets or on town-owned open space.
3. Building facades fronting public streets shall be of similar or greater quality and design as compared to the remaining facades of the same building.
4. Rooftop equipment, building mechanical equipment, garbage management equipment and maintenance work areas shall be visibly screened from public streets and abutting lots that include residential or public recreational uses.
5. Building and structure placement shall not prevent access to open space in the project.
6. Buildings shall not be longer than 300 feet. Facades shall not continue unbroken for longer than 75 feet.
7. Buildings should be constructed as part of a single architectural plan that is consistent throughout the project, whether buildings are constructed in phases or not.

### **XX.10.3 Landscaping.**

1. All open areas, exclusive of areas to remain in an existing natural state shall be landscaped utilizing both natural and man-made materials such as grasses, trees, shrubs, paving materials and outdoor furniture that are appropriate to the local climate and anticipated uses of the project.
2. Deciduous street trees (typically growing to no more than 30 feet in height) shall be placed along both sides of new drive lanes. All street trees along drive lanes or around parking lot perimeters shall be placed at a maximum spacing of 75 feet on center. In parking lots with greater than six spaces, street trees shall be placed at parking lot perimeters and/or on parking lot islands, such that no parking space is more than 75 feet from the nearest street tree.
3. A minimum of four different species of street trees shall be used. Below is a list of Town recommended street trees:
  - Acer Rubrum Red Maple
  - Fraxinus Americana White Ash

- Fraxinus Pennsylvanica Green Ash cultivars
  - Gleditsia Triacanthos inermis Thornless Honeylocust
  - Plantanus Acerifolia London Planetree
  - Pyrus Calleryana Bradford Pear cultivars
  - Quercus Rubra Red Oak
  - Tilia Cordata Littleleaf Linden
  - Tilia Tomentosum Silver Linden
4. Outdoor lighting shall be provided in drive lanes and parking areas. Outdoor lighting shall be located and designed to prevent direct light from shining onto any abutting lot used for residential or public recreational uses per Underlying Zoning. Direct or indirect lighting shall not cause total illumination in excess of 1.5 foot candles when measured at any point vertically above the boundary of an abutting public street or an abutting lot that includes residential or public recreational uses per Underlying Zoning.
  5. Landscaped buffer shall consist of natural or landscaped area at least ten feet wide. Where natural or existing plantings are not present, new plantings shall provide a visual screen that begins at or near ground level and, when mature, will provide a minimum height of at least eight feet. At least fifty percent of the plantings shall consist of evergreens. Buffers may be interrupted to provide for the entrance and exit of vehicular and pedestrian traffic. New shrub plantings in buffer areas shall be a minimum of four feet in height at time of planting. New evergreen trees shall be a minimum of six feet in height at time of planting.
  6. All required landscaping shall be maintained in good condition at all times.

#### **XX.10.4 Pedestrian Amenities and Recreation.**

1. All buildings and on-site open spaces shall be connected by pedestrian routes. Pedestrian routes may include, but are not limited to, paved sidewalks, paved parking lots and unpaved paths.
2. Pedestrian routes shall connect to existing public pedestrian walkways and existing public sidewalks abutting the Project site.
3. Where practicable and desired by the PAA, pedestrian routes shall connect the project site to existing abutting public recreational areas, provided that (a) no wetlands crossings, and (b) no paths or pedestrian routes in other locations subject to other regulatory approval beyond Plan Approval under this Article, shall ever be required by the PAA to be provided by or as part of the Project.
4. Passive and/or active private recreational areas shall be provided at a size, type and scale appropriate for the number of units proposed. Nearby existing public recreational facilities connected to the site via a pedestrian path may accommodate all or part of this requirement.

### **XX.10.5 Signage.**

1. The following signage is permitted within the SGA, all other signs are prohibited without the special permit of the PAA.
  - a. Two identification signs, not exceeding twenty-four square feet each, at each public entrance to a multi-family development;
  - b. Signs bearing the name and/or address of a building, not to exceed four square feet in area each;
  - c. Real Estate signs, located on-site, not to exceed six square feet in area, and real estate sale or rental banners attached to buildings on site, each not more than four feet in width and 100 feet in length. Such signs shall be removed forthwith upon sale or rental of the premises advertised;
  - d. Reflecting street name signs and signs erected for the direction, convenience and control of vehicular and pedestrian traffic; each of said signs shall be no more than three (3) square feet in area per side, or as allowed and/or required by Massachusetts General Law;
  - e. Signs on or adjacent to the entry of a multiple occupancy building listing the occupants thereof, provided that the size of such sign shall not exceed one square foot for each occupant or a total of twenty square feet, whichever is smaller and provided further that there shall be only one such sign per building;
  - f. One contractor's sign and one lender's sign, each not exceeding twelve square feet in area maintained on the premises while construction is in progress and containing information relative to the project. Such signs shall be set back at least feet from the street lot line and shall be removed promptly after the completion of construction;
  - g. Political signs not exceeding sixteen square feet each provided that such signs are placed on private property and do not create a safety hazard; and
  - h. Temporary "grand opening" signs not to exceed 40 square feet each and for a period of time not to exceed 14 days.
2. All permanent signs, except traffic signs, shall be made of natural materials or have a natural appearance.
3. Neon signs and similarly styled signage with interior illumination is prohibited; as are any façade components [e.g. trim] that feature neon or similar illumination. Moving or flashing signs; signs illuminated by or including any flashing or oscillating light; electronic billboards and reader boards; strings of pennants or so-called "whirligigs" and the like are not permitted. Flashing or animated signs of any color shall not be permitted.

#### **XX.10.6 Private Parking Lots, Driveways and Drive Lanes.**

1. The Project may include private parking lots and driveways, which provide unenclosed paved spaces for parking and the direct vehicular access to said parking spaces.
2. The Project may include private drive lanes, which provide access from the public street system and provide vehicular circulation through the project. Drive lanes do not provide for the parking of vehicles.
3. All private parking lots, driveways and drive lanes shall remain privately owned. All deeds conveying any portion of the land or structure containing private parking lots, driveways or drive lanes, shall specify that they are and shall remain private.
4. The maintenance of private parking lots, driveways and drive lanes, including, but not limited to snowplowing, patching and repaving, shall remain the responsibility of the owner. All deeds conveying any portion of the land or structure containing private parking lots, driveways or drive lanes shall note this private responsibility of maintenance.
5. Where project parking areas with more than six parking spaces abut lots outside the SGA district that include residential or public recreational uses per Underlying Zoning, provide a landscaped buffer between such parking area and such abutting lot.
6. Parking lots shall comply with the following:
  - a. Min. aisle width for two-way traffic: .....22 feet
  - b. Min. aisle width for one-way traffic: .....12 feet
  - c. Min. centerline curve radius: .....25 feet
  - d. Min. intersection curb corner radius: .....5 feet
  - e. Min. grade: .....1%
  - f. Max. grade: .....5%
  - g. Min. parking space length: .....18 feet
  - h. Min. parking space width: .....9 feet
  - i. Compact space length: .....16 feet
  - j. Compact space width: .....8 feet
  - k. Max. number of compact spaces: .....20% of total parking
7. Drive lanes shall comply with the following:
  - a. Min. pavement width for two-way traffic: 24 feet
  - b. Min. pavement width for one-way traffic: 14 feet
  - c. Min. centerline curve radius: .....100 feet
  - d. Min. tangent between reverse curves: .....100 feet
  - e. Min. intersection curb corner radius: .....15 feet
  - f. Min. cross slope grade: .....1.5 %

- g. Max. cross slope grade:.....3%
- h. Min. centerline profile grade: .....1%
- i. Max. centerline profile grade:.....9% (4% within 25 feet of an intersection)

8. Any change in centerline profile grade greater than 1% shall be made with a vertical curve.

#### **XX.10.7 Storm Drainage.**

1. Storm water runoff shall comply with the Massachusetts DEP (Department of Environmental Protection) Stormwater Management Policy.
2. Peak flows and run-off at the boundaries of the Project shall be no higher following development than before development, for the 10 and 25 year storm events using either the SCS TR-55 or TR-20 methods. Stormwater recharge to groundwater is encouraged where practicable.
3. Capacity of drainage systems shall be adequate to carry all storm water run-off presently flowing through the proposed Project area, as well as to dispose of any additional run-off generated by the proposed Project up to and including the run-off from a one hundred year storm using the following methods:
  - a. the flow from storms of up to a twenty-five year frequency and a twenty-four hour duration shall be conveyed through the storm drain system on the developed site. Storm drain piping and grate inlets shall be designed for a 25 year storm event;
  - b. Detention facilities and culverts shall be provided to accommodate all run-off, up to and including the run-off generated by the one hundred year, twenty-four hour storm. As a minimum, detention basin routing calculations shall be prepared for the ten, twenty-five and one hundred year storm events.
4. Drainage pipe systems shall be designed to provide self-cleaning flow velocities.
5. Maximum total depth of detention/retention area shall be six feet as measured from the lowest outlet point to the lowest point of the emergency overflow.
6. Outlet control structures shall be designed to minimize required maintenance for proper operation.
7. Each storm water detention/retention area shall be provided with a method of emergency overflow in the event of a storm in excess of the one hundred year frequency type.
8. Drainage system may discharge to an existing, adjacent Town drainage system if the Applicant can show that the Town drainage system provides sufficient excess



capacity to accommodate both the existing runoff and the proposed additional runoff from the project during a twenty-five year frequency and a twenty-four hour duration storm event.

9. Hydraulic calculations, prepared by a registered professional engineer, shall note the specific engineering and/or computer program to be used. Hydraulic calculations shall be submitted to substantiate all design features of any proposed or existing drainage system utilized by the project. Computations for run-off shall be made in accordance with standard engineering practice. Hydraulic calculations shall include the following:
  1. Runoff area boundaries shown on a plan
  2. Methodology used
  3. Soil/land use characterization and design storm parameters
  4. Soil conditions / ground water
  5. Pipe size calculation
  3. Detention / retention pond and outlet control calculations as applicable
  4. Total suspended solid (TSS) removal rates and calculations
  5. Infiltration calculations as applicable
  6. Culvert analysis and calculation as applicable
10. A continuous design element (i.e. railing or hedge) shall border any detention/retention basin area with interior side slopes greater than 3:1. Drainage basins shall be designed to facilitate access for maintenance vehicles and personnel.
11. If it is necessary to carry drainage across lots within the development, storm drainage easements shall be provided, of such width and construction as will be adequate to accommodate the volume and velocity of the run-off. However, no such easement shall be less than twenty feet (20') in width.
12. If a proposed drainage system will carry water across land outside the development boundaries to an approved outfall, appropriate drainage rights shall be secured by the applicant at the applicant's expense, and shall be referenced on the 40R Plan.
13. Retention and detention ponds, and methods of overland flow may be used to retain, detain and treat any increased and accelerated runoff which the development may generate.
14. There shall be a minimum of two feet of naturally occurring soils between the detention basin bottom and the maximum annual ground water table;
15. Intermittent surface water courses and such as swales, forebays, detention/retention basins shall be vegetated and appropriately reinforced along the low flow channel.

16. The use of drainage facilities coordinated with landscaped buffers, open space and conservation areas is encouraged.
17. Neighboring properties shall not be negatively impacted by flooding due to excessive runoff caused by the development within the SGA.

#### **XX.10.8 Utilities – Basic Requirements**

1. Utilities shall include potable water supply, sanitary sewerage, electricity distribution, electronic communications (not to include satellite or antenna type communications) and natural gas distribution.
2. All utility conduits shall be installed underground. All utilities installed beneath paved surfaces shall be installed prior to the placement of subbase.
3. Installation: All utility lines, and/or other subsurface facilities within the street rights-of-way shall be installed prior to the placement of the roadway subbase materials. All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to, telephone and community antenna television cable.
4. Identification: The applicant shall provide and install utility identification in accordance with the applicable specifications and standards of each applicable utility company providing service to the project.
5. If it is necessary to provide utility connections across lots within the development, utility easements shall be provided, of such width and construction as will be adequate to accommodate the required utility infrastructure. However, no such easement shall be less than twenty (20) feet in width, whether for an individual utility or accommodating two or more utility lines.
6. Submitted utility plans shall include the location of all utilities and include the following:
  - a. Hydrant locations;
  - b. Water valve and gate locations;
  - c. Connections to water supply;
  - d. Sanitary sewage collection, treatment and disposal system;
  - e. Sanitary sewage pumps if applicable;

#### **XX.10.9 Water Facilities.**

1. The applicant shall be responsible for installing water facilities, including, but not limited to water supply, pipes, hydrants, hydrant markers, gates, valves, and all

other related appurtenances. Any extension of an existing pipe and construction of new pipes requires approval from the North Reading Water Department.

2. Fire hydrants shall be required. Fire hydrants, with hydrant markers, shall be located not more than five hundred feet apart.
3. Reasonable provisions shall be made for extension of the water system and pipes to adjoining property, including installation of water gates. Appropriate easements may be required.
4. If the municipal water supply is available, but the minimum required flow is not available, the Applicant shall propose either (a) to extend the municipal water system or (b) provide an alternative system for providing water supply and fire protection.

#### **XX.10.10 Sewer.**

1. If there is not existing adequate public or private sewage capacity available for the first Project electing to be governed by this Article and the Enabling Laws, then the Applicant for such Project shall (a) commence construction of a private sewage treatment facility providing all necessary sewage treatment capacity for such Project no later than three (3) years after the date the Town of North Reading receives the Zoning Incentive Payment provided by the Enabling Laws, and (b) complete such facility no later than March 15, 2011. Both such dates shall be subject to extension for any period during which such Project is subject to any legal or administrative appeal, and during all periods when such Applicant is actively pursuing other required permits, and during all other periods when there is other good cause for the failure to meet such dates, as determined by DHCD. To the extent that (x) the sewage flows that could be generated by full buildout of the SGA (i.e., the maximum allowable number of units in the SGA -- determined after deducting any SGA Future Open Space actually restricted for such purposes from the area of the Multi-family Residential Subdistrict, times an assumed-average of 1.72 bedrooms per unit, times the per-bedroom sewage flow rates established by DEP) exceeds (y) the sewage treatment capacity constructed by the Applicant for the first Project, then (z) the Town of North Reading shall complete construction of a sewage treatment facility for such potential excess sewage flows no later than March 15, 2014.
2. Without limiting the generality of the foregoing, such sanitary sewage system or systems shall be designed to comply with applicable State DEP standards and permitting under all applicable State environmental laws and DEP regulations.

### **XX.10.11 Electric and Communication Lines**

1. All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to telephone, television cable and computer broadband.
2. Electric transformers shall be constructed above ground and screened from view.

### **XX.11 Application for Plan Approval**

**XX.11.1 Preapplication.** Prior to the submittal of a site plan, a “Concept Plan” may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

1. Overall building envelope areas;
2. Open space and natural resource areas;
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the design standards and other requirements of the SGA.

**XX.11.2 Full Buildout Required to be Shown for Plan Approval.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fees which shall be as set forth in the PAA Regulations. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.

**XX.11.3 Required Submittals.** The application for Plan Approval shall be accompanied by the following plans and documents. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA. The required plans and documents are:

- a) Architectural ground and/or first floor plans and major elevations of each building type proposed.
- b) Architectural rendering of typical building appearance that account for topography.
- c) Sample of materials proposed for the construction of building facades.

- d) Signage master plan, to include overall design, sign locations, and size and materials of signs.
- e) Site layout plan, including all easements and dimensions necessary to verify compliance to design standards.
- f) Drainage and grading plan with construction details.
- g) Site utility plan with construction details and limits of work.
- h) Photometric calculation plan.
- i) Drainage calculations.

## **XX.12 Procedures**

**XX.12.1 PAA Regulations.** The Permit Approval Authority has adopted limited, procedural rules and regulations entitled “Rules and Regulations of the North Reading Permit Approval Authority, Chapter 40R,” dated February 6, 2006, as approved by the Department of Housing and Community Development (the “PAA Regulations”). Such rules and regulations are on file in the Office of the Town Clerk. Any amendment to such rules and regulations must be approved by the Department of Housing and Community Development and filed in the office of the Town Clerk.

**XX.12.2 Filing.** An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be delivered forthwith to the PAA by the Town Clerk.

**XX.12.3 Circulation to Other Boards, Commissions and Agencies.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Community Planning Commission, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, and other municipal officers, agencies or boards as determined by the PAA for comment, and any such board, agency, commission or officer shall provide any written comments within 30 days of its receipt of a copy of the application.

**XX.12.4 Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan and shall constitute a Plan Approval under this Article.

**XX.12.5 Peer Review.** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R,

Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith..

Peer review under this Section shall be conducted, and fees therefore shall be charged, only and strictly in compliance with Guideline II.C of the “Local 40B Review and Decision Guidelines” dated November, 2005, issued by the Massachusetts Housing Partnership.

**XX.12.6 Expedited Hearing in Certain Cases.** If an Applicant for a Project electing to be governed by this Article and the Enabling Laws has, at any time after the date of application to DHCD for approval of this Article and the Berry Center Residential SGA, obtained a Comprehensive Permit for a residential project located within the area of the SGA from the Zoning Board of Appeals of the Town of North Reading (which is also designated to be the PAA under this Article), or has already undergone substantial review of an application for a Comprehensive Permit for such a project by the Zoning Board of Appeals of the Town of North Reading, then it is the intention and goal of this Article that such Applicant and such Project shall have the benefit of expedited review of the Project by the PAA for a Plan Approval under this Article. The PAA and all other boards, commissions, officers and authorities of the Town of North Reading shall endeavor to waive requirements and to avoid requests which would have the effect of requiring resubmission or duplication of previously submitted information and plans. The PAA shall endeavor to avoid revisiting design, site plan and mitigation determinations already reached, and shall endeavor to issue a Plan Approval for such Project within forty-five (45) days after application therefor. In no event shall such Applicant who has elected to develop its Project under this Article rather than developing pursuant to the Comprehensive Permit as such, ever be required to comply with any provisions of the Comprehensive Permit, but shall instead be governed solely by this Article, the Enabling Laws and the Plan Approval.

## **XX.13 Decision**

**XX.13.1 Waivers.** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Article XX, including the design standards of Section XX.10, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGA, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section XX.0, or if failure to grant the requested waiver would Unduly Restrict the proposed Project .

**XX.13.2 Plan Review.** An application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such plan review shall be construed and conducted as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. Accordingly, the PAA shall not unreasonably

withhold, condition or delay any requested Plan Approval for an As-of-right Project in the SGA.

**XX.13.3 Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. the applicant has submitted the required fees and information as set forth in the Regulations; and
2. the Project and site plan meet the requirements and standards set forth this Article XX, or a waiver has been granted therefrom; and
3. extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

**XX.13.4 Plan Disapproval.** A requested Plan Approval may be disapproved, but only where the PAA reasonably finds in writing, with particularity, that:

1. the applicant has not submitted the reasonably required fees and information as set forth in the Regulations; or
2. the Project and site plan do not meet the reasonable requirements and standards set forth this Article XX, and a waiver cannot be granted therefrom; or
3. it is not possible to adequately mitigate significant adverse project impacts on abutting properties by means of suitable conditions.

**XX.13.5 Form of Decision.** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application or notice. A copy of the decision or application or notice bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

**XX.13.6 Freeze During Process; Effectiveness and Validity of Final Plan Approval After Process.** An application to the PAA for Plan Approval shall be governed by the applicable provisions of this Article in effect at the time of the submission of the application or notice, while the plan or notice is being processed, during the pendency of any appeal, and for three (3) years after approval. If an application is denied, such

provisions in effect at the time of the application shall continue in effect with respect to any further application filed within two (2) years after the date of the denial, except as the Applicant may otherwise choose.

A Plan Approval and any and all minor changes thereto sought by an Applicant, shall remain valid and shall run with the land indefinitely, and a Project shall be governed by the applicable provisions of this Article in effect at the time of the submission of the original application or notice for such original Plan Approval (without regard to applications for minor changes) indefinitely, provided that construction of the Project covered by such Plan Approval has commenced within the meaning of the Enabling Laws within two (2) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be further extended as provided in a Plan Approval for a multi-phase Project. Such commencement of construction of the first phase of a Project covered by such Plan Approval within such two (2) year period, as so extended, shall constitute the timely commencement of construction of all phases of the entire Project for the purposes of this Section. The PAA may impose, but shall not be required to impose, such outside time limits for the commencement of the final phase of a phased Project as it sees fit, provided that the earliest date for such commencement of such final phase shall not be earlier than five (5) years after the Plan Approval decision is issued, as extended as provided above, nor later than fifteen (15) years after the Plan Approval decision is issued, as extended as provided above, and further provided that any failure to meet such outside time limits shall only affect the right to construct the unbuilt phase(s) and shall not affect the previously constructed phase(s) or the respective rights of the same. In the event of a casualty affecting a building or structure which itself, or the use thereof, would be nonconforming with the provisions of this Article but for the grandfathering provided by this Section, such structure may be repaired, rebuilt and/or reconstructed, as necessary, provided that any such repair, rebuilding or reconstruction shall be commenced within two (2) years after the date of such casualty, and shall thereafter be diligently and continuously prosecuted to completion. Except as provided in any one or more of the preceding sentences of this paragraph, any amendment to this Article shall apply to building permits applied for after the first notice of public hearing on such amendment.

The owner of a Project, or applicable portion thereof, may choose to waive the benefit of the provisions of this Section in writing.

No further Plan Approval, special permit, variance or the like shall ever be required to reconstruct a Project, or portion thereof, following any casualty.

On the other hand, any Alteration or Extension of a Project which would not conform to the then-existing provisions of this Article shall require a further Plan Approval or deemed Plan Approval.

For purposes of this Section: "Alteration" means any construction resulting in a material



change in the structural parts or height of, or number of stories or size of, a building or other structure, or to permit a Substantially Different Use of such building or other structure; and “Extension” means any material increase in physical size or a Substantially Different Use.

#### **XX.14 Change in Plans after Approval by PAA**

**XX.14.1 Minor Changes.** After Plan Approval an Applicant may from time to time apply to make changes involving utility or building orientation adjustments, adjustments to parking, landscaping, massing and/or other adjustments to site details that do not materially affect the overall buildout or building envelope(s) on the Project or overall provision of open space, do not increase the number of dwelling units by more than five percent of the previously described number of housing units included in the previous Plan Approval and/ or affordability percentages or features, all of which shall be considered to be minor changes. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision issued within thirty (30) days after the Applicant has filed its application therefor, and the PAA shall provide a copy to the Applicant for filing with the Town Clerk.

**XX.14.2 Major Changes.** Those changes not included in the preceding description of minor changes, which changes are also found by the PAA to constitute a major change because of the nature of the change in relation to the prior Plan Approval, shall be processed by the PAA as a new application for Plan Approval pursuant to this Article.

**XX.15 General Administration and Enforcement.** This Article shall be enforced by the Building Inspector, who may require the submission of plans, specifications and other information which he deems to be necessary to determine compliance with its provisions. No building shall be constructed, reconstructed, enlarged, altered, moved, removed or demolished as part of a Project governed by this Article without obtaining a building permit. The Building Inspector shall withhold such building permit if such building or such activity included in such a Project governed by this Article, would be in violation of this Article. No actual use and occupancy (as opposed to construction and/or break-in period testing) of a building, a lot, or a portion of either of them shall be commenced or changed without the issuance by the Building Inspector of a certificate of compliance. The Building Inspector shall withhold such certificate of compliance unless the Building Inspector is satisfied that all work has been completed in accordance with the provisions of the applicable approved permits and of the applicable provisions of this Article, and that the proposed use will be in conformity with the applicable provisions of this Article. The Building Inspector shall not issue a building permit for a Project until he is reasonably satisfied that a Plan Approval has issued for the Project. Any building permit issued by the Building Inspector shall become invalid unless the work authorized by it shall have been commenced within the meaning of the Enabling Laws within six (6) months after its issuance, which shall be automatically extended for the duration of any

appeal or challenge to such building permit and which may be further extended, as allowed in writing by the Building Inspector pursuant to the State Building Code